

CITY OF BIGGS
PLANNING STAFF REPORT

465 C Street
P.O. Box 1134
Biggs, CA 95917

PHONE: (530) 868-5447
FAX: (530) 868-1124

TO: Honorable Mayor and Members of the City Council

DATE: October 11, 2010

FROM: Scott Friend, AICP, City Planner
Erin Dougherty, Planning Assistant

SUBJECT: Burke-Trent 3069 Eighth Street – Dangerous Buildings

SUMMARY

In early July staff sent a letter regarding the fact that the City was declaring the property at 3069 Eighth Street has three buildings that are dilapidated, abandoned, boarded windows, and the buildings are in a state in which portions are falling down.

BACKGROUND / DISCUSSION

The subject lot, 3069 B Street, is located on the western side of, and fronting, Eighth Street and the northwestern corner of E Street, abutting Ninth Street to the rear of the property. The site is zoned with the R2, Medium Family Residential. The property is currently developed with an existing single family residential dwelling and two outbuildings. In or around the first of July of 2010, Ms. Burke-Trent was fined originally \$100.00 for Weed Abatement. Shortly after that the weed portion of the property was abated.

On July 9, 2010 staff issued a "Dilapidated/Dangerous Building" letter to the property owner. Staff gave the property owner until the end of July to respond before taking the issue to the City Attorney. Late July, Ms. Burke-Trent contacted staff and explained that she wasn't able to make the payments any longer on the property, nor could she pay for any further abatement on the property. Ms. Burke-Trent asked if she could enter into some sort of contract with the City to abate the problems, but wasn't sure how she would pay for it at that time.

Staff explained to Ms. Burke-Trent that since our last contact with her that staff has been directed to no longer extend times for abatement and that she would have to take the matter to the City Council for an appeal to staffs determination.

In August of 2010, Ms. Burke-Trent approached Council in the Community Participation section of the meeting and pled her case. She was informed that the item could be agendaized for the September meeting.

In September Ms. Burke-Trent requested the City enter into some sort of agreement for the abatement of the property. Ms. Burke-Trent also at that time expressed that she had at least one person interested in purchasing the property and renovating the home and out buildings.

At the September meeting Council directed staff to draft an agreement for abatement and to bring the agreement back to Council for discussion.

The property owner currently has an unpaid \$100 fine for weed abatement. Staff has held in abeyance a \$100 fine for dangerous building abatement, which would have been levied August 2nd, as the property owner indicated intent to appeal to council. A \$250 fine would have been levied August 16th, and a \$500 fine on August 30th. After these steps BMC provides for legal action.

BIGGS MUNICIPAL CODE

The following sections of the Biggs Municipal Code (BMC) constitute the applicable code Sections utilized in the review and consideration of this request:

Section 6.25.020 E. Buildings and Structures

Within outbuildings and visible

6.25.020 (1) (a)

- Household furnishings
- Tires and other debris

6.25.020 (1) (b)

- Trench behind house (apparently it is part of the old porch)

6.25.020 (2) Landscaping

(a) Dead vegetation including dry grass

(b) over grown vegetation

c. Vegetation within city right of way

6.25.020 (5) Buildings

(a)

- Garage – broken boards, full of household furnishings
- Shed- Full of tires, and miscellaneous junk, roof falling in
- House-boarded up windows, unsecured foundation
- Structurally unsound front porch.

STAFF RECOMMENDATION

Staff requests that Council approve the Abatement Agreement with the property owner, or direct staff as to any changes.

- Attachment A – July 9, 2010 Letter
- Attachment B- Letter to Applicant regarding minimal abatement
- Attachment C- Abatement Agreement



City of Biggs - Dept. of Planning
465 C Street / P.O. Box 1134
Biggs, CA 95917
(530) 868 -5447

**NOTICE OF CODE VIOLATION(S) –
PUBLIC HEALTH AND SAFETY and NUISANCE ABATEMENT
at 3069 Eighth Street**

Date: July 9, 2010

To: Burke-Trent & Associates
738 Justeson Road
Gridley, CA 95948
Assessor Parcel Number: 001-173-006

RE: BMC Code Compliance Issue 07-2010 BLDCOND

SUBJECT: Dilapidated/Dangerous Building

Dear Property Owner:

The purpose of this letter is to inform you that the City of Biggs has determined that a Violation of the City of Biggs Municipal Code exists on the property described as **3069 Eighth Street, Biggs, CA 95917**.

Nature of Complaint: The City of Biggs has determined that a violation of *Title 6 - HEALTH AND SAFETY NUISANCE ABATEMENT, Chapter 6.25, Health and Safety Nuisance Abatement* of the Biggs Municipal Code which indicates that "[i]t shall be unlawful for any person owning, leasing, renting, occupying or having charge or possession of private property in the City to maintain or allow to be maintained such property in such manner that any of the following conditions which are visible from the street are found to exist there on.

5. Buildings and Structures

- a. Buildings dilapidated, abandoned, boarded up, partially destroyed, have broken windows or broken windows secured with wood or other materials (*emphasis added*).
- d. Unsecured buildings constituting hazardous conditions or inviting or permitting trespassers and malicious mischief (*emphasis added*).

Based upon information received by members of the general public and two visual inspections of the subject property by City staff on June 3, 2009 and June 12, 2009, the following conditions were observed on the site which constitutes violations of the sections of the Biggs Municipal Code cited above:

- ✓ Abandoned and
- ✓ Broken Windows; *BMC 6.25.030.5.a,d, and*
- ✓ Unsecured Building; *BMC 6.25.030.5(d).*

It is noted herein that during staff's visual inspection of the building, the plywood sheet covering the western door entrance to the building was pulled away from the wall allowing for unobstructed access to the inside of the garage. Additionally, it was noted that at least one window was broken-out and not covered with plywood. City staff fastened the existing plywood to the door frame and provided wood to cover the broken window, to reduce the imminent health and safety hazards. Additional city labor and materials, if needed, will be billed to the property owner.

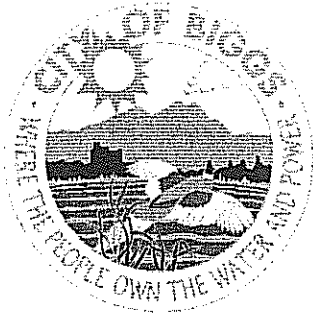
Please be advised that City Staff are available to discuss this matter with you and will work with you to resolve this issue in a manner amenable to both you and the City. If you have questions about this letter or the items at issue, please contact Scott Friend, City Planner at (530) 894-3469 ext. 13214 or Erin Dougherty, Code Enforcement Officer at (530) 868-5447, **no later than July 30, 2010 to discuss this matter, after this date the item will be turned over to the City Attorney.** Please note that in order to determine the compliance status of the site referenced above, a site inspection may be required.

Sincerely,
City of Biggs

By: _____
Erin Dougherty
Code Enforcement Officer

*Enclosure: Chapter 6.025 Health and Safety Nuisance Abatement
Definitions - Various*

cc: Case file
Scott Friend, City Planner



City of Biggs - Dept. of Planning
465 C Street / P.O. Box 1134
Biggs, CA 95917
(530) 868-5447
Fax 530-868-5239

Date: September 14, 2010

To: Burke-Trent & Associates
738 Justeson Road
Gridley, CA 95948
Assessor Parcel Number: 001-173-006

RE: Dangerous Building at 3069 Eighth Street, Biggs, CA 95917

Dear Ms. Burke-Trent:

This letter is to inform you that the City of Biggs intends to bring to the September 20, 2010 City Council meeting your request of the August 16th meeting which was to consider abatement and fine options. As you may remember, at this time there is a \$100.00 fine assessed for Weed Abatement. The items that are identified are those that staff believes constitute violations of the City Code and identifying that these items need to be addressed. In addition, you will be asked to sign an Abatement Agreement to resolve these issues. This agreement will involve a timeline for abatement of the noted violations and will identify penalties for non-action.

Additionally, below you will find a list of violations along with resolutions for them. This will be part of what we present to Council on September 20th.

Basic Violations

Within outbuildings and visible

6.25.020 (1) (a)

- Household furnishings
- Tires and other debris

6.25.020 (1) (b)

- Trench behind house (apparently it is part of the old porch)

6.25.020 (2) Landscaping

(a) Dead vegetation including dry grass

(b) over grown vegetation

c. Vegetation within city right of way

6.25.020 (5) Buildings

(a)

- Garage – broken boards, full of household furnishings
- Shed- Full of tires, and miscellaneous junk, roof falling in
- House-boarded up windows, unsecured

Suggested Resolutions

- Remove all debris that is within both out buildings
- Fill in trench
- Buildings must be empty of household furnishings.
- Clear all dead vegetation
- Trim all overgrown bushes and trees back or remove them
- Trim back or remove
- Garage to be emptied or removed
- Shed needs to be emptied or removed
- Secure foundation at house. (Prevent access to the structure from underneath)
- Secure all out buildings.
- Remove front porch overhang or secure it.

- foundation
 - Structurally unsound front porch.
- Misc.
- There are piles of brush that could be from the neighbor tossing over the fence along with what might be building materials at the garage.
 - Fence repaired; piles of debris or building materials at fence stored in secure area.

Overall:

At minimum:

- Removal of all debris, household good, tires, etc. from both out buildings.
- Removal of the shed in which the roof is falling into the building in some places.
- Dead grass needs to be somehow removed from property. This is not an occupied parcel so there needs to be some sort of fire prevention measure taken.
- Trench in yard needs to be filled in.
- All vegetation that is in the right-of-way needs to be removed or trimmed so that it is out of the right-of-way.
- All overgrown vegetation needs to be trimmed back.
- The foundation of the house needs to be secured.
- All entrances to the house need to be secured along with any outbuildings that remain.
- The property needs to be fenced off so that access to the property is not as easy as it is now.
- The weeds, grasses, plants, etc. need to be kept so that they are not a nuisance.
- Remove solid waste receptacles from public view, or at least place against a structure on non-trash days.

Note: End result is that the structure(s) not be in a dilapidated condition.

The items in this letter constitute those items in which the City has identified as being required to be addressed and will be included within the "action plan" in the Abatement Agreement that the City will be sending for your signature.

Please note, that IF you should sign the Abatement Agreement, which will include a timeline for the resolution of the issues noted, the City may suspend any FUTURE fines on the property at the Councils discretion. But failure to sign the agreement will result in the continuation of the City's abatement of the violations, which will include more fines.

Should you have any questions please feel free to call the Planning Department at the above noted number.

City of Biggs Planning Department

By: _____
Erin Dougherty
Code Enforcement Officer



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(530) 868 -5447

AGREEMENT TO ABATE A NUISANCE

Code Compliance Case: 07-2010 BLDCOND

THIS AGREEMENT is entered into between the **CITY OF BIGGS**, through Erin Dougherty, Code Enforcement Officer (**City**) and Eileen Burke-Trent, (**Owner/Authorized Representative**), concerning code enforcement case 07-2010 BLDCOND pertaining to property located at and described as 3069 Eighth Street (APN 001-173-006) in the City of Biggs.

Section 1

Description of Nuisance

Eileen Burke-Trent (jointly and/or singularly) is the owner and/or authorized representative of the property described above on which a public nuisance has been determined to exist in violation of the Biggs Municipal Code. Pursuant to the *Notice of Intent to Abate a Public Nuisance* letter dated July 9, 2010, the following nuisance conditions were noted to be in existence on the subject property:

The City of Biggs has determined that a public nuisance exists at the above noted property. *Title 6 – Health and Safety, Chapter 6.027, Neighborhood Nuisance Abatement Chapter 6.025, Health and Safety Nuisance Abatement and Title 6 – Health and Safety, Chapter 6.025, Health and Safety Nuisance Abatement*, prohibit the accumulation of abandoned, discarded, or dilapidated objects which constitutes a threat to the general public's health, safety and welfare, including but not limited to: junk; abandoned, wrecked, dismantled or inoperative vehicles; vehicle parts and equipment; machine parts, scrap metal, appliances, furniture, household equipment and furnishings, shopping carts, containers, packing materials, scrap wood, plant cuttings, rubbish and debris.

Section 2

Description of Time Extension Agreement and Conditions

The City has expended significant time and resources in seeking abatement by owner. Despite some effort, the nuisance remains such that a fine has been imposed. The City of Biggs has been presented with a request by the owner/authorized representative of the property for an extension of time within which to abate an identified public nuisance and City Code Violations. *Pursuant to this request, the City Council of the City of Biggs has authorized an extension of the time to abate the public nuisance conditions beginning on **Tuesday, October 19, 2010** and ending on **December 1, 2010**.* Based on the owners' non-response to staffs request for affirmation time specified is sufficient to abate this nuisance. Additionally, the City Council has directed that all fines set to accrue in the period between Monday, September 20, 2010 and Monday, December 1, 2010 shall be held in abeyance pending the successful abatement of the property pursuant to this agreement. In exchange for the City's extension of time, the owner agrees to abate the nuisances pursuant to the terms and conditions set-forth below. If the full and complete abatement of the nuisance conditions on the property have not been completed by the date of **December 1, 2010**, then all fines scheduled to accrue to the property from September 20, 2010 to December 1, 2010 from the non-abatement of the nuisance condition shall be made applicable to the property, and further enforcement actions as prescribed by the City Code will ensue. During the period of time from October 18, 2010 to December 1, 2010, the owner/authorized representative shall provide to the City, weekly correspondence (verbal, email or written correspondence) briefly documenting what activities have been undertaken that week and what effort has been pursued. The CITY Code Enforcement Officer shall make periodic inspections of the property during this time and shall provide feedback to the owner/authorized agent on progress based upon the weekly progress reports and inspections.

Section 3

Description of Nuisance Abatement Actions

The owner or authorized representative shall abate the violations of City Code described above by the following acts:

1. *Removal of all junk, debris, rubbish, equipment, vehicle parts, scrap materials, yard clippings, household equipment and containers not otherwise stored and/or screened in a manner allowed by the Biggs Municipal Code.*

2. *Vegetation maintenance activities shall be undertaken such that all vegetation shall be made to be in conformance with the Biggs Municipal Code.*
3. *Any and all hazardous materials shall be removed from the site in compliance with State, county and local requirements for removal and disposal.*
4. *All buildings to be secured, awnings to be made structurally sound, foundation to be secured.*

It is noted herein that nothing in the above described nuisance abatement actions included as part of this agreement, requires alterations to the physical structures on the site nor relate to the existing condition of physical infrastructure or utility services. City codes related to structures may be address and enforced separately.

The CITY and property owner/representative agree that ALL of the above described nuisance abatement actions necessary to eliminate the public nuisance conditions existing on the site shall be completed to the satisfaction of the CITY **NO LATER THAN December 1, 2010**. Time is of the essence with respect to performance by the property owner/representative.

Should the property owner/representative fail to timely abate the nuisance as described above, the owner/representative shall be jointly and individually liable to the CITY for the payment of all costs for abatement of the above-described property constituting the nuisance as well as all administrative costs (CITY staff time, attorney fees, legal costs and all other related expenses) associated with the removal and disposal of the above-described property.

Additionally, as further consideration of the Agreement, property owner/representative grants to the CITY the right to enter upon the above-described property to abate the nuisance pursuant to this action. By entering into this agreement, the parties participating in this agreement warrant to the CITY that they are the legal owners of the subject property or are authorized to enter into an agreement on behalf of the property as outlined in this agreement.

IN WITNESS WHEREOF, the parties have executed the AGREEMENT on the date set forth below:

OWNER/REPRESENTATIVE:	
DATED: _____	_____ Eileen Burke-Trent
CITY OF BIGGS:	BY:
DATED: _____	_____ ERIN DOUGHERTY CODE ENFORCEMENT OFFICER